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R277. Education, Administration.

R277-613. LEA Bullying, Cyber-bullying, Hazing, ~~[and Harassment]~~Retaliation, and Abusive Conduct Policies and Training.

R277-613-[2]1. Authority and Purpose.

[A.](1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision ~~[of]~~over public education in the Board~~[-]; and~~

(b) Section 53A-1-401~~[(3)]~~, which allows the Board to ~~[adopt]~~make rules ~~[in accordance with its responsibilities;]~~to execute the Board's duties and responsibilities under the Utah Constitution and state law~~[and the responsibility of the Board to provide assistance with and ensure LEA compliance with Section 53A-11a-301].~~

[B.](2) The purpose of the rule is to:

(a) require LEAs to implement bullying, cyber-bullying, hazing, ~~[and harassment]~~retaliation, and abusive conduct policies ~~[district and school wide]~~at the school district and school level;

(b) ~~[to]~~provide for regular and meaningful training of school employees and students;

(c) ~~[to]~~provide for enforcement of the policies in schools, at the state level and in public school athletic programs; and

(d) ~~[to require LEAs to notify parents of specific bullying, cyber-bullying, hazing, harassment and suicide threat incidents; and to require LEAs to maintain documentation as required by law]~~require an LEA to review allegations of bullying, cyber-bullying, hazing, retaliation, and abusive conduct.

R277-613-[4]2. Definitions.

[A. "Board" means the Utah State Board of Education.]

(1) "Abusive conduct" means the same as that term is defined in Section 53A-11a-

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102.

[B:](2)(a) "Bullying" means the same as that term is defined in Section 53A-11a-102.

~~[intentionally or knowingly committing an act that:~~

~~—— (1)(a) endangers the physical health or safety of a school employee or student;~~

~~—— (b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;~~

~~—— (c) involves consumption of any food, liquor, drug, or other substance;~~

~~(d) involves other physical activity that endangers the physical health and safety of a school employee or student; or~~

~~—— (e) involves physically obstructing a school employee's or student's freedom to move; and~~

~~—— (2) is done for the purpose of placing a school employee or student in fear of:~~

~~—— (a) physical harm to the school employee or student; or~~

~~—— (b) harm to property of the school employee or student.]~~

(b) "Bullying" includes relational aggression or indirect, covert, or social aggression, including rumor spreading, intimidation, enlisting a friend to assault a child, and social isolation.

([3]c) The conduct described in ~~[R277-613-1B]~~Subsection 53A-11a-102(2) constitutes bullying, regardless of whether the person against whom the conduct is committed directed, consented to, or acquiesced in, the conduct.

~~[(4) Bullying is commonly understood as aggressive behavior that:~~

~~—— (a) is intended to cause distress and harm;~~

~~—— (b) exists in a relationship in which there is an imbalance of power and strength; and~~

~~—— (c) is repeated over time.]~~

[C:](3) "Civil rights violations," for purposes of this rule, means bullying, cyber-bullying, hazing, or ~~[harassing]~~retaliation ~~[, or abusive conduct]~~ that is targeted at a federally

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protected class.

[D.](4) "Cyber-bullying" means the same as that term is defined in Section 53A-11a-102~~[using the Internet, a cell phone, or another device to send or post text, video, or an image with the intent or knowledge, or with reckless disregard, that the text, video, or image will hurt, embarrass, or threaten an individual, regardless of whether the individual directed, consented to, or acquiesced in the conduct, or voluntarily accessed the electronic communication].~~

[E.](5) "Federally protected class" means any group protected from discrimination under the following federal laws:

[(1)a] Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin;

[(2)b] Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex;

[(3)c] Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability; and

[(4)d] [Θ]other areas included under these acts described in Subsection (5)(a) through (c), which prohibit discrimination on the basis of religion~~[, gender identity, and sexual orientation]~~.

[F. "Harassment" means ~~repeatedly communicating to another individual, in an objectively demeaning or disparaging manner, statements that contribute to a hostile learning or work environment for the individual.~~]

[G.](6) "Hazing" means the same as that term is defined in Section 53A-11a-102.
~~[intentionally or knowingly committing an act that:~~

~~—— (1)(a) endangers the physical health or safety of a school employee or student;~~

~~—— (b) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;~~

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81 ~~_____ (c) involves consumption of any food, liquor, drug, or other substance;~~

82 ~~_____ (d) involves other physical activity that endangers the physical health and safety of~~
83 ~~a school employee or student; or~~

84 ~~_____ (e) involves physically obstructing a school employee's or student's freedom to~~
85 ~~move; and~~

86 ~~_____ (f)(i) is done for the purpose of initiation or admission into, affiliation with, holding~~
87 ~~office in, or as a condition for, membership or acceptance, or continued membership or~~
88 ~~acceptance, in any school or school sponsored team, organization, program, or event; or~~

89 ~~_____ (ii) if the person committing the act against a school employee or student knew that~~
90 ~~the school employee or student is a member of, or candidate for, membership with a~~
91 ~~school, or school sponsored team, organization, program, or event to which the person~~
92 ~~committing the act belongs to or participates in.~~

93 ~~_____ (2) The conduct described in R277-613-1G constitutes hazing, regardless of~~
94 ~~whether the person against whom the conduct is committed, directed, consented to, or~~
95 ~~acquiesced in, the conduct.]~~

96 ~~[H.](7) "LEA" [means a local education agency, including local school boards/public~~
97 ~~school districts, charter schools, and]includes, for purposes of this rule, the Utah Schools~~
98 ~~for the Deaf and the Blind.~~

99 ~~[I. "Parent," for purposes of this rule, means a student's guardian consistent with~~
100 ~~Section 53A-11a-203(1).]~~

101 ~~[J.](8) "Participant" means any student, employee or volunteer coach participating~~
102 ~~in a public school sponsored athletic program or activity, [both]including a curricular, co-~~
103 ~~curricular, [and]or extracurricular[, or extracurricular] club or activity.~~

104 ~~[K.](9) "Policy" means standards and procedures that:~~

105 ~~(a) are required in Section 53A-11a-301;~~

106 ~~(b) include the provisions of Section 53A-11-901; and~~

107 ~~(c) provide additional standards, procedures, and training adopted in an open~~

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meeting by an LEA board that:

(i) define bullying, cyber-bullying, hazing, ~~[and harassment]~~ retaliation, and abusive conduct[;]; and

(ii) prohibit bullying, cyber-bullying, hazing, ~~[and harassment]~~ retaliation, and abusive conduct[;];

(iii) require regular annual discussion and training designed to prevent bullying, cyber-bullying, hazing, ~~[and harassment]~~ and retaliation~~[, and abusive conduct]~~ among school employees and students; and

(iv) provide for enforcement through employment action or student discipline.

(10) "Restorative justice practice" means a discipline practice that brings together students, school[s] personnel, families, and community members to resolve conflicts, address disruptive behaviors, ~~[and]~~ promote positive relationships, and healing~~[, and entire communities].~~ ~~[In restorative justice practices, students are held accountable for their behavior by engaging with those who have been wronged.]~~

~~[L:]~~(11) "Retaliate" or "retaliation" means the same as that term is defined in Section 53A-11a-102~~[an act or communication intended:~~

~~—— (1) as retribution against a person for reporting bullying, cyber-bullying, hazing and harassment; or~~

~~—— (2) to improperly influence the investigation of, or the response to, a report of bullying, cyber-bullying, hazing and harassment].~~

(12) "School employee" means the same as that term is defined in Section 53A-11a-102.

(13) "Trauma-Informed Care" means a strengths-based service delivery approach that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both offenders and victims, and that creates opportunities for victims to rebuild a sense of control and empowerment.

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R277-613-3. [Utah State Board of Education]Superintendent Responsibilities.

[A:](1) ~~[To the extent of resources available]~~Subject to availability of funds, the
[Board]Superintendent shall provide:

(a) a model policy on~~:~~
~~—(f)]~~ bullying, cyber-bullying, hazing, and retaliation~~;~~~~and abusive conduct~~ as
required in Section 53A-11a-302; ~~and]~~

~~[(ii) a grievance process for a school employee who has experienced abusive
conduct as described in Subsection 53A-11a-301(3)(f);]~~

(b) a model training on:
(i) the prevention and identification of bullying, cyber-bullying, hazing, and
retaliation, ~~and abusive conduct~~ that an LEA may use to train the LEA's employees,
contract employees, and volunteers, including coaches; and

(ii) the reporting and review requirements in Section R277-613-5;
(c) training opportunities ~~[or materials or both for employees of LEAs on]~~related to
the prevention of bullying, cyber-bullying, hazing, and retaliation,~~and abusive conduct~~;
and

(d) evidence based practices and policies related to the prevention of bullying,
cyber-bullying, hazing, and ~~[harassment]~~retaliation, ~~and abusive conduct~~.

(2) Although an LEA is required to have a policy on bullying, cyber-bullying, hazing,
retaliation and abusive conduct as described in Section 53A-11a-301 and this rule and
provide training as described in Section 53A-11a-401 and this rule, the LEA is not required
to use the model policy or model training developed by the Superintendent described in
Subsection (1).

[B:](~~2~~3) The Board may interrupt disbursements of funds consistent with
Subsection 53A-1-401(~~3~~8) and Rule R277-114 for failure of an LEA to comply with:

(a) Title 53A, Chapter 11a, Bulling and Hazing; and
(b) this rule.

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(~~3~~4) In addition to the requirements of Title 53A, Chapter 11a, Bullying and Hazing and this R277-613, LEAs are required to comply with applicable federal requirements.

~~R277-613-5. LEA Responsibility to Create Bullying Policies.~~

R277-613-4. Bullying, Cyber-bullying, Hazing, and Retaliation~~, and Abusive Conduct~~ Prohibited.

~~[A. Each]~~An LEA shall ~~implement an updated policy~~ prohibit~~ing~~:

(1) bullying~~;~~;

(2) cyber-bullying~~;~~;

(3) hazing ~~[, harassment and]~~;

~~(e)~~4) retaliation~~;~~; and~~;~~

~~[(5) abusive conduct; and]~~

(6) making a false report ~~[, consistent with Section 53A-11a-301]~~.

R277-613-5. LEA Responsibility to Create or Update Bullying Policies.

~~[B.](1) [Each]~~In addition to the requirements of Subsection 53A-11a-301(3), an LEA shall:

(a) develop, update, and implement policies as required by Section 53A-11a-301 and this rule;

~~[(1)]~~b) post a copy of ~~[its]~~the LEA's policy on the LEA website; ~~and]~~

~~[(2)]~~provide a copy of the LEA policy or uniform resource locator (URL) to the State Superintendent of Public Instruction at the Utah State Office of Education~~;~~;

(c) develop an action plan to address a reported incident of bullying, cyber-bullying, hazing, or retaliation, ~~for abusive conduct~~; and

(d) provide a requirement for a signed statement that meets the requirements of Subsection 53A-11a-301(3)~~[(g)]~~h annually.

~~[C.](2)(a) [The policy shall include parental notification]~~As required by Section 53A-

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186 11a-301, an LEA shall notify a parent of:

187 ~~[(1)]~~i) a parent's student's threat to commit suicide; ~~[and]~~or

188 ~~[(2)]~~ii) an incident of bullying, cyber-bullying, hazing, ~~[harassment]~~ or retaliation ~~[, or~~
189 ~~abusive conduct]~~ involving the parent's student.

190 ~~[(3)]~~b) ~~[This part of the policy shall also include]~~An LEA shall:

191 ~~[(a)]~~i) ~~[timely parent notification]~~notify a parent described in Subsection (3)(a) in a
192 timely manner;

193 ~~[(b)]~~ii) designat~~[ion of]~~e the appropriate school employee~~(s)]~~ to provide parental
194 notification; and

195 ~~[(c)]~~iii) designat~~[ion of]~~e the format in which notification ~~[shall be]~~is provided to
196 parents and maintained by the LEA[;

197 ~~———— (d) directives for secure maintenance of the notification record as required under~~
198 ~~Section 53A-11a-203(1);~~

199 ~~———— (e) a retention period and destruction process for the notification; and~~

200 ~~———— (f) an LEA definition of parent(s) consistent with Section 53A-11-203 and this rule].~~

201 ~~[D.](3) [The policy shall provide for student assessment of the]~~Subject to the
202 parental consent requirements of Section 53A-13-302, an LEA shall assess [survey]
203 students [and employees] about [on] the prevalence of bullying, cyber-bullying, hazing,
204 and [harassment]retaliation in LEAs and schools, specifically locations where students are
205 unsafe and additional adult supervision may be required, such as playgrounds, hallways,
206 and lunch areas.

207 ~~[E.](4) [The policy shall include required]~~An LEA shall take strong responsive action
208 against retaliation, including assistance to [harassed]bullied [employees,] students and
209 their parents in reporting subsequent problems and new incidents.

210 ~~[F.](5)(a) [The policy]~~An LEA shall provide that students, [staff,]school employees,
211 coaches, and volunteers receive training on bullying, cyber-bullying, hazing, and
212 harassment]retaliation, [and abusive conduct] from individuals qualified to provide such

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213 training.~~[The LEA shall determine how often training shall be provided.]~~

214 ~~([4]b)~~ The training ~~[should be specific to]~~described in Subsection (5)(a) shall:

215 ~~([a]i)~~ include information on various types of aggression and bullying, including:

216 (A) overt aggression that may include physical fighting such as punching, shoving,

217 kicking, and verbal threatening behavior, such as name calling, or both physical and verbal

218 aggression or threatening behavior;

219 ~~([b]B)~~ relational aggression or indirect, covert, or social aggression, including rumor

220 spreading, intimidation, enlisting a friend to assault a child, and social isolation;

221 ~~([e]C)~~ sexual aggression or acts of a sexual nature or with sexual overtones;

222 ~~([d]D)~~ cyber-bullying, including use of email, web pages, text messaging, instant

223 messaging, three-way calling or messaging or any other electronic means for aggression

224 inside or outside of school; and

225 ~~([e]E) civil rights violations, [appropriate reporting and investigative procedures.]~~

226 ~~This]~~ includ[es]ing bullying, cyber-bullying, hazing, and [harassment]retaliation based upon

227 the students' or employees' actual or perceived identities and conformance or failure to

228 conform with stereotypes[-]; and

229 ~~[(2) Training should also include awareness and intervention skills such as social~~

230 ~~skills training for students and staff, including aides, custodians, kitchen and lunchroom~~

231 ~~workers, secretaries, paraprofessionals, and coaches.]~~

232 ~~([3]ii) [Training on bullying, cyber-bullying, hazing and harassment required of LEA~~

233 ~~policies under the rule should-]~~ complement the suicide prevention program required for

234 students under Rule R277-620 and the suicide prevention training required for licensed

235 educators consistent with Subsection 53A-1-603(9).

236 (6) The training described in Subsection (5) shall be offered to:

237 (a) new school employees, coaches, and volunteers; and

238 (b) ~~[to]~~ all school employees, coaches, and volunteers at least once every three

239 years.

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[G.](7)(a) An LEA's [P]olicies developed under this section shall ~~[also]~~ complement existing ~~[safe and drug free]~~ school policies and research based school discipline plans.

(b) Consistent with Rule R277-609, the discipline plan shall provide direction for dealing with bullying, cyber-bullying, hazing, ~~[harassment]~~ retaliation ~~[; abusive conduct;]~~ and disruptive students.

(c) ~~[This part of the]~~ An LEA shall ensure that a discipline plan required by Rule R277-609 ~~[shall]~~:

(1)i) directs schools to determine the range of behaviors and establish the continuum of administrative procedures ~~[that may be]~~ to be used by school personnel to address the behavior of ~~[habitually disruptive]~~ students;

(2)ii) provides for identification, by position ~~[s]~~, of an individual ~~[s]~~ designated to issue notices of disruptive student and bullying, cyber-bullying, hazing, and ~~harassment behavior~~ retaliation ~~[; and abusive conduct;]~~;

(3)iii) designates to whom notices shall be provided;

(4)iv) provides for documentation of disruptive student behavior ~~[prior to referral of disruptive students to juvenile court]~~ in the LEA's student information system;

(5)v) includes strategies to provide for necessary adult supervision;

(6)vi) ~~[be]~~ is clearly written and consistently enforced;

(7)vii) includes administration, instruction and support staff, students, parents, community council and other community members in policy development, training and prevention implementation so as to create a community sense of participation, ownership, support and responsibility; and

(8)viii) provides notice to employees that violation ~~[s]~~ of this rule may result in employment discipline or action.

R277-613-6. Reporting and Incident Review of Allegations of Bullying, Cyber-bullying, Hazing, and Retaliation ~~[; and Abusive Conduct;]~~.

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(1) An LEA shall:

(a) review allegations of incidents of bullying, cyber-bullying, hazing, and retaliation, ~~[and abusive conduct]~~ in accordance with this section; and

(b) provide an individual who reviews allegations of incidents of bullying, cyber-bullying, hazing, and retaliation ~~[, and abusive conduct]~~ with adequate training on conducting a review.

~~[(2) An LEA shall contact the appropriate local law enforcement agency if:~~

~~— (a) there is an alleged crime;~~

~~— (b) safety issue; or~~

~~— (c) threat of violence.]~~

~~[(2)(a)]~~ (a) An LEA shall review allegations of incidents described in Subsection

(1)(a) by interviewing at least the alleged victim [first] and the alleged offender ~~[-second]~~.

(b) An LEA may also interview the following as part of a review:

(i) parents of the alleged victim and the alleged offender;

(ii) any witnesses; ~~[-and]~~

(iii) school staff ~~[-]; and~~

(iv) other individuals who may provide additional information.

(c) An individual who reviews an allegation of an incident shall inform an individual being interviewed that:

(i) to the extent allowed by law, the individual is required to keep all details of the interview confidential; and

(ii) further reports of bullying will become part of the review.

[(3)(4)] The confidentiality requirement in Subsection (2)(c) does not apply to:

(a) conversations with law enforcement professionals;

(b) requests for information pursuant to a warrant or subpoena; or

(c) a state or federal reporting requirement.

[(4)(5)] In conducting a review under this section, an LEA may:

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- 293 (a) review disciplinary reports of involved students; and
- 294 (b) review physical evidence, which may include:
- 295 (i) video or audio;
- 296 (ii) notes;
- 297 (iii) email;
- 298 (iv) text messages;
- 299 (v) social media; or
- 300 (vi) graffiti.
- 301 (~~[5]~~~~[6]~~5) Following a review of an allegation of an incident of bullying, cyber-bullying,
- 302 hazing, or retaliation, ~~[and abusive conduct,]~~ if appropriate, an LEA ~~[shall]~~may:
- 303 (a) in accordance with the requirements in Subsection (~~[5]~~~~[6]~~6), take ~~[appropriate]~~
- 304 positive restorative justice ~~[discipline]~~practice action, in accordance with policies
- 305 established by the LEA; and
- 306 (b) support involved students through trauma-informed practices, if appropriate.
- 307 (~~[6]~~~~[7]~~6)(a) An alleged victim is not required to participate in a restorative justice
- 308 ~~[discipline process]~~practice with an alleged ~~[aggressor]~~offender as described in Subsection
- 309 (~~[5]~~~~[6]~~5)(a).
- 310 (b) If an LEA would like an alleged victim who is a student to participate in a
- 311 restorative justice ~~[discipline process]~~practice, the LEA shall notify the alleged victim
- 312 student's parent of the ~~[process]~~restorative justice practice and obtain consent from the
- 313 alleged victim student's parent or legal guardian before including the alleged victim student
- 314 in the process.
- 315 (7) A grievance process required under Subsection 53A-11a-301(3)(f) shall be
- 316 consistent with the LEA's established grievance process.
- 317 (~~[6]~~~~[7]~~8) An LEA shall, as required by Subsection 53A-1-401(3), report the following
- 318 annually, on or before June 30, to the Superintendent in accordance with the
- 319 Superintendent's submission requirements:

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- (a) a copy of LEA's policy required in Section R277-613-4;
- (b) implementation of the signed statement requirement described in Subsection 53A-11a-301(3)(g);
- (c) verification of the LEA's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation~~[-, and abusive conduct]~~ described in Section 53A-11a-401;
- (d) incidents of bullying, cyber-bullying, hazing, and retaliation~~[- through the Board's student information system within 5 school days of making a determination that the alleged incident constituted an actual incident of bullying, cyber-bullying, hazing, and retaliation in accordance with the Superintendent's submission requirements]~~; and
- (e) the number of incidents described in Subsection ~~([6][7]8)~~(d) that included a student who:
- (i) is part of a federally protected class~~[-, including whether the student]~~; or
 - (ii) was bullied, cyber-bullied, hazed, or retaliated against because the of the student's disability, race, national origin, religion, ~~[or]~~ sex, gender identity, or sexual orientation~~[- in accordance with the Superintendent's submission requirements]~~.

R277-613-~~[5]7~~. Training by LEAs Specific to Participants in Public School Athletic Programs and School Clubs.

~~[A.](1)(a)~~ Prior to any student, employee or volunteer coach participating in a public school sponsored athletic program, both curricular and extracurricular, or extracurricular club or activity, the student, employee or coach shall participate in bullying, cyber-bullying, hazing, ~~[and harassment]~~ and retaliation~~[-, and abusive conduct]~~ prevention training.

(b) ~~[This]~~A training described in Subsection (1)(a) shall be offered to new participants on an annual basis and to all participants at least once every three years.

~~[B. LEAs may collaborate with the Utah High School Activities Association to develop and provide training.]~~

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[C.](2) An LEA shall inform student athletes and extracurricular club members~~[shall be informed]~~ of prohibited activities under this rule and notified of potential consequences for violation of the law and the rule.

[D.](3) An LEA shall maintain ~~[F]~~training ~~[curriculum outlines, training schedules, and]~~ participant lists or signatures, ~~[shall be maintained by each LEA and]~~to be provided to the ~~[Utah State Office of Education]~~Board upon request.

~~[R277-613-6. Professional Responsibilities of Employee and Volunteer Coaches.~~

~~—— A. All public school coaches shall act consistent with professional standards of R277-515 in all responsibilities and activities of their assignments.~~

~~—— B. Failure to act consistently with R277-515 toward students, colleagues and parents may result in discipline against an educator's license or termination of volunteer services.]~~

R277-613-8. Abusive Conduct.

(1) An LEA shall prohibit abusive conduct.

(2) An LEA's Bullying, cyber-bullying, hazing, abusive conduct, and retaliation policy, required in Section 53A-11a-301 and this rule, shall include a grievance process for a school employee who has experienced abusive conduct as described in Subsection 53A-11a-301(3)(f).

KEY: bullying, cyber-bullying, hazing, ~~[harassment]~~retaliation, abusive conduct, policies, training

Date of Enactment or Last Substantive Amendment: ~~[October 8, 2013]~~2018

Notice of Continuation: ~~[August 2, 2013]~~2018

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401~~[(3);~~
~~[53A-11a-301]~~53A, Chapter 11a**